

**Procedures for Approving, Certifying, Reviewing, Modifying, and Decertifying
Voting Systems, Vote Tabulating Systems, Election Observer Panel Plans, and
Auxiliary Equipment, Materials, and Procedures**

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Procedures for Approving, Certifying, Reviewing, Modifying, and Decertifying Voting Systems, Vote Tabulating Systems, Election Observer Panel Plans, and Auxiliary Equipment, Materials, and Procedures

Article 1. Introduction

101. General Authority

The Secretary of State, in exercising his or her statutory authority, has the duty to approve, certify, review, and decertify voting systems and vote tabulating systems [system], including specific models of a system, and to adopt procedures governing the approval, certification, review, decertification, and use of a system in accordance with the provisions of Division 19 of the California Elections Code (§§ 19001 and following). In the furtherance of open elections at each phase of the automated process of tabulating ballots, the Secretary of State requires that each election jurisdiction (county, city, city and county, district, etc.) prepare and submit for approval its plan to provide access to that portion of the elections process. These plans, called Election Observer Panel Plans, will be filed with the Secretary of State prior to the first use of the system and updated each time the environment in which they are used changes.

102. Approval and Certification Required

At any election, all or any portion of which is conducted under the authority of the Elections Code, votes shall be cast, registered, recorded, and counted by means of voting systems, procedures, and vote tabulating systems that have been approved and certified by the Secretary of State for use in California elections. Conversely, no voting system and no vote tabulating system, in whole or in part, shall be used in any election conducted under California law, unless the Secretary of State has approved and certified that system.

103. Conditions for Approval and Certification

- (a) For any voting machine, voting device, vote tabulating device, and any software used for each, including the programs and procedures for vote tabulating and testing, or any modification to any of the above, to be certified for use in California elections, the criteria by which the Secretary of State evaluates such machine, procedure, device, modification, or software shall include, but not be limited to, the following:
 - (1) The machine or device and its software shall be suitable for the purpose for which it is intended;
 - (2) The system shall preserve the secrecy of the ballot;
 - (3) The system shall be safe from fraud or manipulation;
 - (4) The system shall be auditable for the purposes of an election recount or contest procedure;
 - (5) The system shall comply with all appropriate federal and California laws and regulations, and;
 - (6) The system shall have been certified, if applicable, by means of qualification testing by a Nationally Recognized Test Laboratory (NRTL) and shall meet or exceed the minimum requirements set forth in the *Performance and Test Standards for Punch Card, Mark Sense*,

and Direct Recording Electronic Voting Systems, or in any successor voluntary standard document, developed and promulgated by the Federal Election Commission.

- (b) In addition to the requirements of subdivision (a) of this section, voting systems, procedures, and equipment approved and certified by the Secretary of State shall promote accessible voting opportunities for persons with physical disabilities.

104. Rationale of Certification Process

- (a) Certification consists of three separate levels of testing: qualification, certification and acceptance.
- (b) Certification tests shall include functional tests and qualitative assessment to ensure that the system operates in a manner that is acceptable under federal and state law and regulations.
- (c) Certification tests shall enhance public confidence by assuring that the system protects the secrecy of the ballot and the security of the voting process, and records and counts votes accurately.
- (d) Certification tests shall promote public confidence that the system is easy to use or ‘voter friendly.’
- (e) Certification testing shall demonstrate that the system creates an audit trail showing both that the voter was able to vote for the candidate or for or against a measure of his or her choice and that the system correctly and consistently interpreted the voter’s votes.

Article 2. Jurisdiction

201. Reservation of Powers

The Secretary of State reserves the right to approve, disapprove, certify, and decertify, as appropriate:

- (a) New or modified voting systems and vote tabulating devices;
- (b) New or modified procedures and regulations required for the use of such approved voting systems and vote tabulating devices;
- (c) New or modified Election Observer Panel Plans for each election jurisdiction conducting an election at which approved voting systems and vote tabulating devices are used, and;
- (d) The formats and specifications for ballots to be used with approved voting systems and vote tabulating devices.

202. Certificates of Inspection

The Secretary of State shall receive:

- (a) Not later than January 1 of every odd-numbered year:
 - (1) Certificates of Biennial Inspection from elections officials conducting any California election at which automated voting systems and vote tabulating devices are used. (See appended certificate);

- (2) Certificates of Biennial Inspection from vendors who lease to, rent to, or allow elections officials to use any automated voting system or vote tabulating device in any California election. (**See** appended certificate)
- (b) Not less than seven days before any state election, including elections to fill vacancies, certificates from Accuracy and Program Verification Boards in each election jurisdiction in which automated voting systems are used. (**See** appended certificate)

203. Delegation of Powers

The Secretary of State may delegate duties to the Voting Systems and Procedures Panel:

- (a) To review periodically all approved voting systems, voting devices and vote tabulating devices, as well as the required regulations and procedures for their use, and to make recommendations to the Secretary of State regarding their continued approval for use in California elections;
- (b) To review periodically each election jurisdiction's approved Election Observer Panel Plans;
- (c) To review periodically all approved formats and specifications for ballots to be used with approved voting systems and vote tabulating devices;
- (d) To review and make recommendations on applications for new voting and vote tabulating systems, equipment, materials, and procedures, as well as modifications to existing voting and vote tabulating systems, equipment, materials, and procedures, and;
- (e) To establish an agenda and to conduct a public meeting for the purpose of reviewing applications and making recommendations to the Secretary of State.

Article 3. Voting Systems and Procedures Panel, Advisory Committee, and Technical Consultants

301. Applicability of Procedure

This procedure shall apply to all voting systems, voting devices, vote tabulating systems, equipment, materials, and procedures.

302. Voting Systems and Procedures Panel

The Secretary of State may establish a Voting Systems and Procedures Panel [Panel] to review proposed voting and vote tabulating systems, procedures, materials, and equipment, including proposed modifications, for certification and make recommendations to the Secretary of State regarding certification.

303. Composition of Voting Systems and Procedures Panel

The Secretary of State shall review the membership of the Panel, and may appoint members to it as needed. The appointed members shall serve at the pleasure of the Secretary of State. Panel members shall not hold or exercise any direct or indirect financial interest(s) in voting systems, vote tabulating systems, or any other equipment used with such systems.

304. Advisory Committee

The Secretary of State may also appoint membership to an advisory committee to assist the Secretary in evaluating voting systems, voting devices, vote tabulating systems, and any other issue or item to come before the Panel. The appointed members serve at the pleasure of the Secretary of State.

305. Technical Consultants

The Secretary of State may retain, as required, one or more technical consultants to conduct tests, review specifications, write reports, make recommendations, and otherwise assist the Secretary of

State and the Panel. No consultant shall hold or exercise any direct or indirect financial interest(s) in voting systems, vote tabulating systems, or any other equipment used with such systems.

306. Public Meetings

The Secretary of State or his or her designee will convene panel meetings. The meetings shall be conducted publicly with appropriate notice and publication of the agenda. The Secretary of State's Elections Division will provide support staff..

Article 4. Application for Approval and Certification

401. Who Can Apply For Approval And Certification

Any person or corporation [applicant] owning or being interested in a voting system or a vote tabulating system, part of a system, equipment, materials or procedure may apply to the Secretary of State for approval or certification.

402. Time to Apply

The applicant may apply to the Secretary of State at any time.

403. Contents of Application

The application shall be in writing, on a form supplied by the Secretary of State, and shall include at least the following information:

- (a) Information about the applicant, including name, address, telephone number, and business address, if applicable;
- (b) Complete and detailed description of the item(s) or procedures to be approved or certified, including whether the application is for a new item or for modification of an existing item;
- (c) Information about the product or procedure that is being reviewed, including, but not limited to, version numbers, release numbers, operating and maintenance manuals, training materials, technical and operational specifications, installed customer lists, photographs, promotional materials, etc;
- (d) Reports for all tests conducted on the item being reviewed for approval or certification by any Nationally Recognized Test Laboratory (NRTL);
- (e) Documentation that the item meets the Federal Election Commission Voting Equipment guidelines;
- (f) The applicant is encouraged to include certification documents from other states that have certified the equipment;
- (g) A list of other states, counties, and municipalities where the system is presently in use;
- (h) A list of other states, counties, and municipalities where the system has been used but is no longer in use;
- (i) A list of any other states where an application has been made for approval of the equipment, and a statement as to whether the equipment was approved, disapproved, or the application is pending;

- (j) Information describing any financial relationship between the applicant and the manufacturer, distributor, or retailer of the various components of the equipment for which approval is sought, and;
 - (k) Other information or materials the applicant wishes to provide;
- The Secretary of State may request additional information from the applicant.

404. Application Complete Before Examination Begins

Only after the Secretary of State has received a completed application from the applicant may an examination begin. No application shall be deemed to be complete until all documentation and fees required by these procedures has been submitted to the Secretary of State or his or her designee.

405. Voting Equipment to be Submitted

- (a) The applicant shall make a working model of the item under review available to the Secretary of State for the duration of the review.
- (b) The Secretary of State may require the applicant to cover the expenses of one or more Nationally Recognized Test Laboratory (NRTL), laboratory, and/or technical experts to assist in examining the item.
- (c) The equipment for which approval is sought shall be made available for examination and certification testing for a period of at least 30 days before the equipment's public hearing by the Voting Systems and Procedures Panel.
- (d) Any operating systems or programs accompanying the equipment shall be designed to count votes accurately.
- (e) The format of the test ballots presented with the equipment shall be for an actual primary election and an actual general election.
- (f) The applicant shall provide necessary ballot cards and other pertinent materials and equipment in sufficient quantity to test the equipment extensively.
- (g) The applicant shall provide the Secretary of State with instruction information and all available specifications.

406. Demonstration of the Item Proposed for Approval or Certification

The Secretary of State shall require that the applicant demonstrate the proposed system, equipment, procedure, or materials to the Secretary of State or his or her designee.

407. Deposit Required for Examination Costs

The Secretary of State may require the applicant submitting the equipment to deposit moneys into an Agency Trust Account sufficient to guarantee and reimburse the cost of any contract for consultation or any other costs associated with the examination of a proposed item.

Article 5. Evaluating Applications

501. Completeness of Application

Upon receipt of an application, the Secretary of State shall examine the application for completeness. If the application is not complete, the Secretary of State shall notify the applicant of the information required to complete the application. No application will be considered for approval or certification unless it is complete, including all required fees.

502. Statement of Impact

The Secretary of State, based on the materials provided with the application, shall produce a statement summarizing the application and its impacts or effects on voting in California.

503. Administrative Review and Preliminary Evaluation of Applications

Once an application is complete, the Elections Division of the Secretary of State's office shall, within 30 days, conduct an administrative review of the application and will provide recommendations to the Secretary of State as to whether the application requires a meeting of the Voting Systems Panel or if it can be approved or rejected administratively.

504. Elements to Be Considered in the Review of an application

Upon receipt of a completed application, the Secretary of State shall evaluate the application. This evaluation shall include, but is not necessarily limited to:

- (a) A review of California Elections Code sections which address the application;
- (b) A review of federal statutes or regulations which address the application;
- (c) A copy of the approved Qualification Test results released directly to the Secretary of State by a Nationally Approved Test Laboratory (NRTL).
- (d) A review, if applicable, of transcripts or other materials from prior meetings or hearings on the proposed system, procedure, or modification either in whole or in part;
- (e) A review, if applicable, of any procedures manuals, guidelines or other materials adopted for use with the system addressed by the application;
- (f) A review of any effect the application will have on the security of the election system;
- (g) A review of any effect the application will have on the accuracy of the election system;
- (h) A review of any effect the application will have on the ease and convenience with which voters use the system;
- (i) A review of any effect the application will have on the timeliness of vote reporting, and,
- (j) A review of any effect the application will have on the overall efficiency of the election system.
- (k) A Description of Deposit Materials showing that the Ballot Tally Software Source Code has been deposited in Escrow with an Escrow Company approved pursuant to Chapter 6, Division 7, Title 2 of the California Administrative Code, beginning with Section 20630.

505. Applications That Require Approval by the Voting Systems Panel

The Voting Systems Panel shall review any application that is determined to affect materially the security of elections, the accuracy of voting or vote counting, convenience to the voter, lawful conduct of elections, the integrity of the elections process, or otherwise result in significant modification to existing procedures.

506. Applications That Do Not Require Approval by the Voting Systems Panel

Any application that the Secretary of State determines does not materially affect the lawful conduct, accuracy, or security of elections, or which does not materially affect the convenience to the voter of the elections process, may be approved administratively.

507. Approval May Be Conditioned

Any approval may contain additional requirements of one or more actions or procedures, as determined by the review of the application.

508. Decision in Writing

Any decision to approve, certify, decertify, modify, or otherwise respond to an application shall be in writing under signature of the Secretary of State and shall include a statement of reasons for the decision with specific reference to each of the criteria identified in § 504 above.

509. Decision Incorporated into Procedures, Guidelines, Other Materials

Within 30 days the applicant shall incorporate and submit to the Secretary of State for approval all the recommendations required by the Secretary of State for certification for inclusion into all appropriate procedures, guidelines, and other materials affected by the application.

510. Appeal of Administrative Decision

An applicant may appeal any administrative decision to the Secretary of State within 30 days of receipt of the written decision. The appeal shall be made on a form provided by the Secretary of State.

511. Circulation Prior to Voting Systems Panel Hearing

At least 30 days prior to a meeting of the Voting Systems Panel to consider an application, a notice of the proposed changes shall be circulated to all interested parties.

Article 6. Criteria for Approval or Certification

601. Examination and Approval Criteria.

The Secretary of State shall not approve a proposed item without a finding that the item conforms to all applicable laws, procedures and regulations, including the right to a secret ballot, does not compromise the accuracy, security or integrity of the election process, nor interferes with the voter's ease and convenience in voting.

602. Procedures for Use of the Proposed Item

Approval or certification of a proposed item by the Secretary of State shall not take effect until all applicable procedures for its use have been formulated, approved, and incorporated into the

appropriate documentary records. Final approval or certification will include a condition that the contract of sale shall provide that the equipment will work properly under provisions of California election laws, rules and regulation and that the procedures formulated for its operation have been approved by the Secretary of State. A copy of the procedures shall be submitted by the applicant or vendor to a prospective purchaser.

Article 7. Examination and Testing

701. Examination and Testing

The Secretary of State shall conduct, as appropriate, tests and examinations of the proposed item to ensure that it meets the criteria for approval or certification. Examination and testing may consist of one or more functional application tests designed to ensure that the system or equipment meets all applicable procedures, regulations, guidelines and laws, and may include examination or testing by technical experts, including an Nationally Recognized Test Laboratory (NRTL) or laboratory.

702. Examination and Testing of Voting Equipment

All equipment proposed to be used for elections in California shall be examined and tested to ensure proper and accurate operation. The examination and testing shall include, but not be limited to, the set-up and conduct of at least two mock elections. The applicant shall provide ballot materials and programming to create these elections.

703. Mock Elections

- (a) The equipment shall be examined and tested by conducting a mock presidential primary, as defined by California law, and shall to verify, among other things, the provisions for, and the results of, each presidential primary election and the rotation of candidate names for partisan and non-partisan offices, as necessary.
- (b) The equipment shall be examined and tested in conducting a mock gubernatorial general election in order to test the rotation of candidate names for any office, as well as the results of a state and two local recall elections.
- (c) Both mock elections shall feature at least ten precincts with at least ten ballots in each precinct, representing ballots cast at the precinct. Five additional ballots shall represent absent voter ballots.
- (d) In the case of the mock primary election, each qualified political party eligible to participate in the primary shall be represented by at least ten ballots in each precinct. Five additional ballots for each eligible party shall represent absent voter ballots. At the time the equipment is presented for examination and approval, the applicant should verify the number and names of the qualified political parties and should ascertain and follow any laws affecting the counting of partisan ballots at primary, special and general elections, and the rules affecting recall elections. The requirements of this section may be modified to accommodate a “blanket” primary election, if necessary.

Article 8. Modifications and Re-Examination

801. Re-Examination

Any modification, change, or other alteration to a voting or vote tabulating material, equipment, component or procedure shall require approval or certification before it may be used in California elections.

802. Application Information for Examination

An applicant may apply to the Secretary of State for the review of a modification of an existing certified system at any time during the year. Evaluation of the need for re-certification or examination will occur at the convenience and judgment of the Secretary of State. Application, examination, and testing of proposed modifications shall be done according to the same procedures as applications for new items.

803. Contents of Application

In addition to the information required in section 403, an application for modification of an existing voting or vote tabulating system, equipment, material, or procedure shall provide a description, in complete operational and technical detail, of all differences between the originally certified equipment, material, procedure or system and the proposed modification.

Article 9. Public Hearing

901. Public Hearing

The Secretary of State shall schedule a public hearing for any item requiring Panel consideration. The purpose of the hearing shall be to receive testimony and information on proposed systems, materials, equipment or procedures, as well as modification to systems, materials, equipment and procedures. At the hearing, the applicant may be expected to conduct a demonstration and explain the application, as well as to answer questions from the Panel. The applicant may be asked to submit answers in writing if the Secretary of State is not satisfied with the completeness of answers given at the hearing.

902. Time and Place of Hearing

Hearings will be scheduled from time to time by the Secretary of State. Unless otherwise announced, hearings will be held at the Secretary of State's Office, 1500 Eleventh Street, Sacramento, California 95814.

903. Cost of the Hearing

The cost of the hearing will be borne by the State.

904. Agenda

A copy of the agenda, including any amendments, will be available to all persons in attendance, and will be provided to all interested parties not less than 30 days in advance of the hearing..

905. Transcripts

Hearings will be stenographically recorded. Copies of the transcript may be purchased from the court reporter, or obtained from the Secretary of State, approximately three weeks after the hearing. The charge for the copy from the Secretary of State shall be in accord with statutory provisions in effect at the time the request for the copy is made.

906. Witnesses

Applicants may arrange for witnesses and expert testimony in support of an application. Opponents of an application may also arrange for witnesses and expert testimony. Testimony or information may be provided in writing prior to or at the time of a hearing.

Article 10. Decision of the Secretary of State

1001. Decision

The decision of the Secretary of State, either approving, disapproving, or withholding approval of a voting machine, voting device, vote tabulating device, material, equipment, or procedure shall be made in writing, to the applicant, within 30 days of the hearing or provision of additional written materials as specified in Section 1002 (below). The decision shall state whether the system, equipment, material, or procedure so examined complies with the requirements of California election laws and regulations and can be safely used by voters at elections under the conditions prescribed in California election laws and regulations. The decision shall be filed with the Secretary of State, shall be reported to the Governor and Attorney General, shall be open to public inspection and, within 40 days from the date of the hearing, copies shall be sent to the county boards of supervisors, county and municipal elections officials, vendors of elections services and supplies, and interested parties.

1002. Postponement of Decision

The Secretary of State may postpone his or her decision, pending receipt of additional written information, testimony, or examination of materials.

1003. Approval Required Before Use

No system, material, equipment, or procedure, in whole or part, may be used in elections in California unless it has received the approval of and been certified for use by the Secretary of State.

1004. New Application Permitted

Denial of an application shall not prevent the applicant from submitting a new application to the Secretary of State.

Article 11. Periodic Review of Voting Systems

1101. Periodic Review of Approved Voting Systems

Pursuant to Elections Code 19222, the Secretary of State shall periodically review voting systems to determine whether they are defective, obsolete, or otherwise unacceptable. After such review, approval previously granted may be withdrawn. Six months notice must be given prior to withdrawing approval of any voting system unless the Secretary of State shows good cause for a shorter notification period. Any withdrawal by the Secretary of State of his or her approval of a voting system or part of a voting system shall not be effective as to any election conducted within six months of that withdrawal.

1102. Reasons for Periodic Review

The periodic review shall examine certified voting systems and evaluate alternative systems to assure that elections are conducted so as to:

- (a) Protect the secrecy of the ballot;
- (b) Protect the security of the voting process;
- (c) Record and count votes accurately; and,
- (d) Comply with all pertinent election laws, regulations, and procedures.

Article 12. Decertification of Voting Systems and Vote Tabulating Systems

1201. Decertification

If, at any time after the Secretary of State has certified a voting system, he or she determines that the voting system fails to meet the standards set forth in California election law, and upon consideration of the criteria required by the Examination Criteria section of these procedures, the Secretary of State shall notify any users and vendors of that particular voting system that the certification of that system for future use and sale in California is to be withdrawn.

1202. Notice of Rescission

The notice shall be in writing and shall specify the reasons why the certification of the system is being rescinded and the date on which the decertification is to become effective.

1203. Request for Reconsideration

An applicant or user of that voting system may request in writing that the Secretary of State reconsider its decision to decertify the voting system.

1204. Public Hearing on Reconsideration

Upon receipt of the request to reconsider, the Secretary of State shall hold a public hearing for the purpose of reconsidering the decision to decertify the voting system. Any interested party shall be given the opportunity to submit testimony or documentation in support of, or in opposition to, the Secretary of State's decision to decertify that particular voting system. Following the hearing, the Secretary of State may affirm or reverse his or her decision.

Article 13. Acceptance Testing

1301. Acceptance Testing

- (a) Whenever an election jurisdiction acquires a new system or modifies an existing system previously certified by the Secretary of State, the election jurisdiction must perform acceptance tests of the equipment before it may be used to cast or count votes at any election. The equipment must be operating correctly, pass all tests, and must be identical to the equipment certified by the Secretary of State.
- (b) The vendor must provide all manuals and training necessary for the proper operation of the system.
- (c) The election jurisdiction shall perform a series of functional and programming tests that will test all functions of the ballot counting system. This must include processing a substantial number of test ballots of various pre-punch or ballot codes, including split precincts, rotated races, multiple candidates, cumulative reports, precinct reports, canvass reports, and any other tests the election jurisdiction authority finds necessary.

1302. Certify Results of Acceptance Testing

The results of acceptance testing shall be certified to the Secretary of State.

1303. Requirement for Corrections to Improper or Faulty Equipment

If the acceptance test reveals any improper or faulty voting systems equipment, the applicant must make corrections to such improper or faulty equipment within 30 days from the date of such acceptance testing, or as otherwise provided for by contract.

1304. Suspension of Certification

The Secretary of State, upon his or her review of the acceptance testing of such equipment may, at his or her discretion, suspend certification of said equipment for future sales in the State of California, in accordance with the Rescission of Certification provisions of these procedures. Such certification may be reinstated after a complete review of further testing.

Article 14. Maintenance Logs

1401. Maintenance Logs

Each election jurisdiction and voting supplies vendor which has purchased voting systems equipment shall keep a detailed log of maintenance, performance and testing procedures for each piece of such equipment in its inventory.

1402. Format of Maintenance Logs

Such logs shall be in a format specified by the Secretary of State, which shall be reviewed by the applicant, and which shall be available for periodic review and inspection by the Secretary of State.

1403. Suspension of Voting System

The Secretary of State may, after a hearing, suspend the use of any voting system or component thereof in any election jurisdiction in which proper maintenance procedures or proper servicing by the manufacturer have not been fully implemented.

1404. Reinstatement of Certification

The Secretary of State may reinstate the certification based upon review of these procedures and a review of the maintenance logs.

Article 15. Biennial Tests of Voting Equipment

1501. Biennial Testing

A biennial test of electronic or computerized voting equipment shall be conducted on each piece of equipment under the jurisdiction of any elections official or vendor of election services.

1502. Certificate of Biennial Inspection

Certificate of Biennial Inspection means a certification, required by Elections Code § 19220, stating that all voting and vote counting equipment has been examined by the appropriate elections official before its use in an election and has been found to be operating correctly and accurately.

1503. Test Requirements

For a centralized vote county system, biennial testing shall include, at a minimum, 800 votes.

1504. Test Preparation

Such tests shall be prepared by the local elections official or voting supplies vendor.

1505. Local Elections Officials Responsibility

The local elections official shall certify to the Secretary of State that the testing of each piece of equipment within its jurisdiction has been completed. Such certification shall be on a form prescribed by and furnished by the Secretary of State.

1506. Time of Submission of Certification

The test certification shall be submitted to the Secretary of State not less than seven days before an election.

Article 16. Adoption of Federal Election Commission Standards

1601. FEC Standards are Adopted

The Federal Election Commission standards concerning voting systems and software escrow are hereby included by reference, except where otherwise modified by federal and California laws and regulations.

Article 17. Periodic Review of Election Observer Panel Plans

1701. Election Observer Panel Plan

Each county election official shall prepare an Election Observer Panel Plan. This plan shall provide for meaningful public observation of the vote counting process, and shall be filed not later than January 15th of each even-numbered year with the Secretary of State.

1702. Periodic Review of Election Observer Panel Plans

The Secretary of State shall review Election Observer Panel Plans for each county and shall provide comment, as necessary, by February 15th of each even-numbered year.

1703. Model Election Observer Panel Plan

The Secretary of State shall develop, and distribute to each county election official, a model Election Observer Panel Plan.

Article 18. Definitions

1801. Acceptance Test means the examination of voting systems and their components by the purchasing election authority in a simulated use environment to validate performance of delivered units in accordance with procurement requirements; testing to validate performance may be less broad than that involved with qualification testing and successful performance for multiple units (precinct count systems) may be inferred from a sample test.

1802. Accuracy means precision in calculations and outputs.

1803. Audit Trail means a record of the manual and computing processes which have been applied to an election, showing each stage of processing and allowing the original data to be

reconstituted. It permits verification of the integrity and reliability of the vote tabulating process as well as detection and correction of problems. A combination of manual and computer-generated documentation provides a record of each step taken in:

- defining and producing ballots and generating related software for specific elections;
- installing ballots and software;
- testing system readiness;
- casting and tabulating ballots; and,
- producing reports of vote totals.

The record incorporates system status and error messages generated during election processing, including a log of machine activities and routine and unusual intervention by authorized and unauthorized individuals. The audit trail also documents such items as ballots delivered and collected, administrative procedures for system security, pre-election testing of voting systems, and maintenance performed on voting equipment.

1804. Auditability means the ease of auditing the vote tabulating software, the ballots, and the canvass.

1805. Auxiliary Equipment means an independent component having a life of its own that is incorporated into the voting system, such as a card reader, printer or modem. It is not a permanent or enclosed part of the voting system.

1806. Ballot means a document on which the names of the candidates are printed for party positions or public office or contains ballot applications and on which the voter records his or her selection. A ballot may be comprised of two or more standard computer tabulating cards joined together which may be separated for the purpose of counting votes. (*Cf.* Elec C § 301)

1807. Ballot Card means the standard computer tabulating card produced when the stub has been removed from the ballot and when the full ballot, if necessary, has been separated into its sections. In these procedures, the term “ballot card” and “ballot” are sometimes used interchangeably. (*Cf.* Elec C § 302)

1808. Card Reader means a peripheral device for computers, used to read the data from ballot cards.

1809. Certificate of Biennial Inspection means a certification, required by § 19220, stating that all voting and vote counting equipment has been examined by the appropriate elections official before its use in an election and has been found to be operating correctly and accurately. (**See** appended certificate)

1810. Certification by Accuracy and Program Verification Board, sometimes known as Logic and Accuracy Board, means a certification, adopted pursuant to Elections Code § 19205, whereby any county, city and county, city, or district which uses a vote tabulating device, certifies that they have conducted their pre-vote counting tests, and made any necessary corrections to the test materials, at least seven days before the day of the election. (**See** attached sample form)

- 1811. Certification Test Deck** means a pre-audited group of ballots voted with a pre-determined number of valid votes for each candidate, each write-in position and each voting position as a measure or proposition that appears on the ballot. It also includes one or more ballots that have been improperly voted or which are voted in excess of the number allowed by law in order to test the ability of the system to reject the votes, and one or more blank ballots.
- 1812. Certification Testing** means the examination, and possibly testing, of a voting system to determine its compliance with state counting law and rules and any other state requirements for voting systems.
- 1813. Contest** means the aggregate of candidates who run against each other or among themselves for a particular office. There must be a write-in voting square for each position to be filled in the contest. The positive and negative voting options of a ballot measure submitted to voters (Yes or No) also constitute a contest.
- 1814. County and City** both include “city and county.” (Elec C § 310)
- 1815. Data Accuracy** means the system's ability to process voting data without errors generated by the system internally. It is distinguished from data integrity which encompasses errors introduced by an outside source.
- 1816. Data Integrity** means the invulnerability of the system to accidental intervention or deliberate, fraudulent manipulation that would result in errors in the processing of voting data. It is distinguished from data accuracy which encompasses internal, system generated errors.
- 1817. Data Security** means the various methods and procedures, such as the use of passwords and encryption, implemented to prevent unauthorized use, destruction, or disclosure of data, whether it is accidental or deliberate.
- 1818. Demonstrator** means a model or facsimile of the voting device or the portion of the face of a voting machine that shows the voter how to operate the machine. (Elec C § 315)
- 1819. Direct Recording Electronic (DRE) Equipment** means an electronic voting machine (q.v.).
- 1820. Documentation** means facts, manuals, notes, or instructions which are used to explain system functionality, software and hardware characteristics, and developmental testing.
- 1821. Election** means any election including a primary that is provided for under the Elections Code. (Cf. Elec C § 318)
- 1822. Election Observer Panel Plan** means a plan filed with the Secretary of State by any election jurisdiction (county, city and county, city, district) which counts its voted ballots at a place other than the precinct at which the ballots were cast, or uses a vote counting device to count and summarize its voted ballots. The purpose of the plan is to maintain the integrity of the public vote counting required by § 15054.
- 1823. Elections Official** means any of the following:

- (a) A clerk or any person not covered by sub-section (b) who is charged with the duty of conducting an election.
- (b) A county clerk, registrar of voters, city clerk, elections supervisor, or governing board having jurisdiction over elections within any county, city, or district within the state. (*Cf.* Elec C § 320)

1824. Escrow means the process by which a third party having no direct or indirect financial interest with a vendor holds, for safekeeping and possible verification, the voting system software source code, including all changes or modifications and new or amended versions. A financial interest would exist if the third party, for instance, included a vendor's stocks in its portfolio.

1825. Escrow Facility means the physical location in which the source code may be stored. No election jurisdiction may act as an escrow facility.

1826. Examination or Review means the inspection or analysis by a test authority, state certification authority, or local jurisdiction of the system hardware, software and other system documentation, test documentation, or documentation of modifications to ascertain if the system complies with the standards, state code, or procurement contract requirements and to determine if further testing is required.

1827. Functional Test means an empirical test performed to verify or validate the accomplishment of a function or a series of functions.

1828. Hardware means the mechanical, electrical and electronic assemblies, including materials and supplies, which are a part of the voting system, such as microprocessor (CPU), I/O devices, printer, circuit boards, integrated circuits, and power supply. Hardware includes the voting device on which individual voters cast their ballot, as well as the actual equipment which is used to program ballot software or central vote tabulation software.

1829. Log of Maintenance Performance means a written record which contains all information relating to performance of scheduled and non-scheduled maintenance requirements recommended by the vendor or manufacturer of such equipment and all service visits performed by vendor or manufacturer.

1830. Maintenance Log means a written record which contains all information relating to system testing, performance of scheduled and non-scheduled maintenance requirements recommended by the vendor or manufacturer of such equipment, and all service visits performed by vendor or manufacturer.

1831. Mark Sense Voting System means a system by which votes are recorded by means of marks made in voting response fields designated on one or both faces of a ballot card or series of cards.

1832. Modification means any change in either software, firmware, hardware, or procedure for use that directly affects the operation of the voting system that will require reexamination of certified equipment by the Secretary of State.

1833. Modified Existing Systems mean existing systems that have been modified to be in partial or full compliance with the performance and design standards.

1834. Modified New Systems mean voting systems previously developed tested in compliance with the standards and that are subsequently modified.

1835. Operation Manual means (1) a manual of all procedures used to prepare the equipment and provide proper maintenance procedures, including the unpacking and storage procedures to be used by local elections officials, and (2) a manual of election day set-up and election day operating procedures to be used by local elections officials.

1836. Party means a political party or organization that has qualified for participating in any primary election. (Elec C § 338)

1837. Pre-Audited Group of Ballots means a test deck whose contents are known.

1838. Printout means the printed copy of (1) zero totals, candidate names and offices and other information produced by the counting equipment prior to the official canvass of the ballots and (2) the ballots cast for each candidate and question, the names of candidates and the offices for each candidate and other information provided after the official ballot tabulation.

1839. Punch Card or Mark Sense Ballot means a tabulating card on which the voter may record his or her vote by punching or marking at designated locations on the card. (*Cf.* Elec C § 344)

1840. Punch Card Voting System means one where votes are recorded by means of punches made in voting response fields designated on one or both faces of a ballot card or series of cards.

1841. Qualification Testing means the examination and testing of a computerized voting system by an independent test authority using FEC test standards to determine if the system complies with the FEC performance and design standards. This process occurs before certification testing.

1842. Re-Certification means the examination, and possibly the retesting, of a voting system which was modified after having been certified for use in California elections. The object of this process is to determine if the modification still permits the system to function in accordance with state requirements.

1843. Reliability means the probability that an item will perform a required function, under stated conditions, for a stated period of time. **Reliability** is therefore the extension of quality into the time domain and may be paraphrased as ‘the probability of non-failure in a given time.’

1844. Software means the application and operating system programs associated with a computer, as opposed to hardware that refers to the physical components of a computer system. **Software** means any and all codes for operation of the vote counting system including ballot tabulation system bootstrap, monitor and device controllers, operating system, ballot layout, system audit and report generation. **Software** includes all programs, voting devices, cards, ballot cards or papers, operating manuals or instructions, test procedures, printouts, and other non-mechanical or non-electrical items necessary to the operation of a voting system. (*Cf.* Elec C § 355)

1845. Source Code means the specific language a programmer uses to program the electronic equipment or vote tabulating system. The source code of the computer language is then compiled, interpreted, or assembled into object code by the computer. The result is a machine language program in binary form which can be run by the computer.

1846. Special Election is an election, the specific time for the holding of which is not prescribed by law. (Elec C § 356)

1847. Specific Environmental Conditions means and shall include the effect of natural environmental conditions such as temperature, humidity and dust, and induced environmental conditions such as handling, storage or transportation which may affect the operation of the equipment.

1848. Test Deck means a pre-audited group of ballots voted with a pre-determined number of valid votes for each candidate, each write-in position and each voting option on a question or proposition that appears on the ballot. It also includes one or more ballots that have been improperly voted or which are voted in excess of the number allowed by law in order to test the ability of the system to reject those votes, one or more blank ballots, and one or more ballots on which two or more votes are cast for a candidate whose name appears on the ballot more than once for the same office, in order to test the ability of the system to count only the first of such votes for the candidate.

1849. User-Friendly means a process or system which is easy to use and difficult to misuse.

1850. Validation means a test to find errors by executing a program in a real environment (i.e., during acceptance tests).

1851. Vendor means any manufacturer, company, or individual who seeks to sell, or sells, a voting system or a vote tabulating system for use in California elections.

1852. Verification means a test to find errors by executing a program in a simulated environment (i.e., during system qualification testing).

1853. Vote Tabulating Device means any piece of equipment, other than a voting machine, that compiles a total of votes cast by means of ballot card sorting, ballot card reading or scanning, paper ballot scanning, electronic data processing, or a combination of such equipment. (Elec C § 358) Examples: Documation (IBM, Data General, etc.) Card Reader, PROM-PAK, etc.

1854. Vote Tabulating Program means the computer programs used for counting of votes cast on Ballots. It includes both any and all vendor software, and the coding programs specific to each election.

1855. Voting Device means any device used in conjunction with a ballot card or cards to indicate the choice of the voter by marking, punching, or slotting the ballot card. (Elec C § 360) Examples: Vote Recorder, Stylus.

1856. Voting Machine means any device upon which a voter may register his or her vote, and which, by means of counters, embossing, or printouts, furnishes a total of the number of votes cast for each candidate or measure. (Elec C § 361) Examples: Automatic (AVM), Shoup.

1857. Voting Position or Voting Square means an area or square or defined location on the ballot to the right of the candidate's name or ballot measure in which a punch or mark can be made to indicate a valid vote.

1858. Voting System means any mechanical, electro-mechanical, or electronic system and its software, or any combination of such used to cast or to tabulate votes, or both. (Elec C § 362) Examples: DataVote, Mark-a-Vote, Votomatic; Pollstar, Optech, etc.

Certificate of Biennial Inspection

State of California _____)
(City and) County of _____)

I, _____, Registrar of Voters/County Clerk of the (City and) County of _____, do hereby certify that in the normal course of pre-election hardware maintenance and testing of our voting and vote tabulating equipment for the forthcoming election on _____, I find that the voting and vote tabulating equipment used in said (City and) County is operating correctly and accurately. This Certificate is issued pursuant to Elections Code section 19220.

Dated: (date)

Signed: (name and title)

[Seal]

Certification by Accuracy and Program Verification Board

State of California _____)
(City and) County of _____)

We, the undersigned members of the Accuracy and Program Verification Board, having been duly appointed by _____, the Registrar of Voters/County Clerk of the (City and) County of _____, for the election to be held on _____, to verify the logic and accuracy test ballots as required by the Procedures for the use of the _____ System, adopted pursuant to Elections Code section 19205, do hereby certify through the Registrar of Voters/County Clerk to the Secretary of State:

THAT the pre-vote counting tests, as defined in the above-mentioned procedures, have been performed;

THAT the pre-vote counting test results have been compared with the predetermined correct totals for each office and ballot measure;

THAT the cause of any discrepancy was found and corrected; and,

THAT the logic and accuracy test programs, the logic and accuracy test ballot cards, and the logic and accuracy test printed output which were certified as correct by the Accuracy and Program Verification Board were delivered into the custody of the Registrar of Voters/County Clerk.

We declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

SIGNATURE of First Board Member

Date

PRINTED Name of First Board Member

SIGNATURE of Second Board Member

Date

PRINTED Name of Second Board Member

SIGNATURE of Third Board Member

Date

PRINTED Name of Third Board Member

(Use as many signature blocks as there are board members)